

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1558

Introduced by Assembly Member Wolk

February 22, 2005

An act to add Chapter 3.5 (commencing with Section 83500) to Title 9 of the Government Code, relating to the Fair Political Practices Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 1558, as amended, Wolk. Fair Political Practices Commission: pilot project: financial interests in public contracts.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign finance and specifies requirements relating to certain issues of governmental ethics. The Fair Political Practices Commission is given primary responsibility for the administration and implementation of the act. Among its duties, the commission issues opinions upon request relating to issues under the act, and a person acting in good faith on one of these opinions is not subject to civil or criminal penalties for so acting, provided that the material facts are as stated in the opinion request. Existing law provides for a separate set of statutes forbidding specified public officials and employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

This bill would give the Fair Political Practices Commission similar authority to issue opinions with regard to the provisions that concern financial interests of public officials and employees in contracts to the authority they have to issue opinions concerning the Political Reform Act of 1974. It would provide procedures for the issuance of these

opinions, and would make reliance on advice in one of these opinions evidence of good faith in any civil proceeding, as specified. It would specify that the commission shall have no enforcement authority under its provisions, that no local jurisdiction shall be required to participate in the opinion procedures, and that the funding for its provisions shall be provided in the Budget Act of ~~2005~~ 2006.

This bill would make these provisions inoperative on July 1, 2009, and would repeal them as of January 1, 2010.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.5 (commencing with Section 83500)
2 is added to Title 9 of the Government Code, to read:

3
4 CHAPTER 3.5. SECTION 1090 PILOT PROJECT

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6 83500. This chapter may be cited and shall be known as the
7 Government Code Section 1090 Pilot Project to Enhance
8 Compliance with the Ban on Public Officials Having a Financial
9 Interest in Public Contracts.

10 83501. The Fair Political Practices Commission shall be the
11 state agency responsible for implementing the Government Code
12 Section 1090 Pilot Project to Enhance Compliance with the Ban
13 on Public Officials Having a Financial Interest in Public
14 Contracts.

15 83502. During the pilot period, in addition to the authority
16 granted to the commission under Section 83114, the commission
17 shall have the authority to provide written opinions on the
18 application of Sections 1090, 1091, 1091.1, 1091.2, 1091.3,
19 1091.4, and 1091.5 to public officials as follows:

1 (a) Any person may request the commission to issue an
2 opinion with respect to his or her duties under Sections 1090,
3 1091, 1091.1, 1091.2, 1091.3, 1091.4, and 1091.5.

4 (b) The commission shall, within 14 days, either issue the
5 opinion or advise the person who made the request whether an
6 opinion will be issued.

7 (c) The commission shall forward a copy of the opinion
8 request to the Attorney General's office, the local district
9 attorney, and local or agency legal counsel for consultation prior
10 to proceeding with a draft opinion.

11 (d) *When issuing the opinion, the commission shall either*
12 *provide to the person who made the request a copy of any written*
13 *communications submitted by the Attorney General or a local*
14 *district attorney regarding the opinion or advise the person that*
15 *none of these written communications was submitted.*

16 (e) The opinion, when issued, shall be evidence of good faith
17 conduct in any civil proceeding regarding these provisions, if the
18 requester disclosed truthfully all the material facts, and
19 committed the acts complained of in reliance on the opinion. The
20 commission's opinions shall be public records and may from
21 time to time be published.

22 (e)

23 (f) The commission shall have no enforcement authority under
24 the pilot project.

25 83503. (a) Funding for the pilot project shall be provided in
26 the Budget Act of ~~2005~~ 2006. The commission shall be given
27 sufficient additional funding to deal with the increased workload,
28 including the educational component.

29 (b) No local jurisdiction shall be required to participate in the
30 pilot project.

31 83504. This chapter shall become inoperative on July 1,
32 2009, and, as of January 1, 2010, is repealed, unless a later
33 enacted statute, that becomes operative on or before January 1,
34 2010, deletes or extends the dates on which it becomes
35 inoperative and is repealed.

36 SEC. 2. The Legislature finds and declares that the
37 provisions of this act further the purposes of the Political Reform

- 1 Act of 1974 within the meaning of subdivision (a) of Section
- 2 81012 of the Government Code.

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